

NCANG Family Readiness Newsletter

Uniting Our Air Guard One Family at a Time

Volume 2003, Issue 1

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Special points of interest:

**REMEMBER
FAMILIES ARE
OUR MOST
VALUABLE ASSET**

Relief for Military Customers

By Kathleen Flaherty

(continued page 2)

Just received this printed synopsis of the Soldiers and Sailors Relief Act

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: Soldiers' and Sailors' Civil Relief Act

Summary: The Federal Deposit Insurance Corporation (FDIC) reminds financial institutions of requirements of the Soldiers' and Sailors' Civil Relief Act.

In light of the frequent call-up of U.S. military reserve personnel and substantial military enlistment activity, the Federal Deposit Insurance Corporation (FDIC) would like to remind financial institutions of requirements under the Soldiers' and Sailors' Civil Relief Act of 1940. The intent of the law is to allow service members to devote their full attention to defense of the nation, with a minimum of distraction from financial or other legal burdens.

The Act protects members of the military from enforcement of their legal obligations incurred prior to active duty that they are unable to meet due either to their absence from home or from the financial consequences of significantly lower military pay. The Act does not apply to any obligation entered into by a military borrower after his or her military service has commenced. Bankers can anticipate receiving inquiries about customers in active military service. Attached is a summary of the Act's key provisions. (The Act is also available on the Internet at <http://www.access.gpo.gov/uscode/>. Select "TITLE 50A" and SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.")

For more information, please contact Hugh E. Eagleton at (202) 898-6542 (e-mail: HEagleton@fdic.gov).

For your reference, FDIC FILs may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2002/index.html.

Michael J. Zamorski, Director

Attachment

Distribution: FDIC-Supervised Banks (Commercial and Savings)

NOTE: Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room 100, Washington, DC 20434 (800-276-6003 or 202-416-6940).

Soldiers' and Sailors' Civil Relief Act

Key provisions under the Soldiers' and Sailors' Civil Relief Act of 1940, 50 USC App. §501, et seq., include the following:

- **Obligations Covered** - The Act is written broadly to cover virtually any civil obligation or other liability of the service member incurred prior to entry upon active duty (e.g., loans, credit card debt, leases), and any attempted civil court action against the member, such as foreclosure, attachment, divorce or bankruptcy proceedings (§510).

- **Persons Covered** - All persons on active duty in the military service of the United States, including National Guard and Reserves called to active duty, as well as full-time members of the Army, Navy, Air Force, Marines, Coast Guard and Public Health Service personnel on active service with the military, are covered under the Act (§511). Also included are a member's dependents, such as a spouse or dependent children whose financial ability may be "materially affected" by the military service, as well as others who are "secondarily liable" for the obligations of a service member, such as co-signors or guarantors (§§ 513, 536).

- **Documentation of Active Military Service** - Relief under the Act is triggered by an individual's entry into active military service, but no specific form of notice to creditors is required. Sufficient proof of the entry upon active duty may consist of a copy of the individual's duty orders, military enlistment documents, or a letter from his or her military unit verifying the date of entry on active duty. Financial institutions should retain copies of these documents in their files (§§510, 511).

- **Six Percent Interest Rate "Cap"** - The Act limits to 6% per annum the amount of interest that can be charged on financial obligations incurred prior to active duty, unless a court finds that the borrower's ability to pay has not been "materially affected" by service. But the limitation does not apply to debt incurred after entry on active duty. The rate limitation is effective upon commencement of active duty, regardless of when the creditor is notified, and continues throughout the period of active service. Creditors must, therefore, be prepared to make adjustments to the customer's account retroactive to the first day of active duty. "Interest" under the Act also includes any fees charged, such as service or renewal charges (but not bona fide insurance costs), and such fees must be taken into account when calculating the 6% limit. As well, the interest charges in excess of the 6% limit are to be forgiven and may not be collected after release from active duty (§526).

Relief for Military Customers (continued)

· **Material Effect** - The required interest rate reduction to 6% is automatically triggered by entry on active duty. The former higher rate of interest may potentially be reinstated, by court order, if the creditor can demonstrate that the debtor's military service does not have a "material effect" upon the ability to pay. However, the burden of proving no "material effect" is solely that of the creditor and any such court proceeding may be "stayed" under the Act because of the member's absence and inability to defend. Competent legal counsel should be consulted prior to initiating such action (§526).

· **Relief From Judicial Proceedings and Installment Contract Provisions** - The Act provides for a judicial stay upon any attempted execution, attachment or other court proceeding against a service member during active duty and for 60 days thereafter (§521). Default judgments may not be entered without the filing of a sworn affidavit and the court may require

posting of a substantial bond (§520). During active duty and for three months thereafter, creditors are prohibited from foreclosing or seizing real or personal property securing mortgage debt (§532) or from imposing fines or repossessing real or personal property securing installment loan contracts (§531) without a court order. Any applicable statute of limitations or statutory redemption period is automatically "tolled" during active duty and that time cannot be used to compute time limits (§525).

· **Termination of Leases/Rent** - Leases for property occupied for dwelling, professional or business purposes may be terminated by service members, upon written notice, if entered into prior to active duty (§534). Landlords cannot evict dependents of service members from a leased dwelling during active service if the rent is less than \$1,200 per month (§530).



Employer Support of the Guard and Reserve By Jim Rorie

To those of you who do not know me, let me take this opportunity to introduce myself. I am **Jim Rorie**, a full-time employee with the NCANG. I am also the **Employer Support of the Guard and Reserve (ESGR) representative for all NCANG members to include Charlotte, Badin, and New London.**

As you all are aware, this past year has been one of the busiest years in the NCANG's history. With world events such as they are today, it's unpredictable to say what the future holds for those in the Guard and Reserve. Many traditional Guard and Reserve personnel have been most active this past year which means they have had to be absent from their civilian employment for indefinite periods to say the least.

I would like for all commanders, 1st sergeants, and supervisors to advise your troops that should they have an employer problem in regards to military duties, they should **FIRST** talk to their respective commander. **SECONDLY**, if their commander is not available or can't help with the situation, they should contact me. I have been with ESGR since

1984 and in most cases, **CAN HELP!** My job with ESGR is to be a liaison for Guard and Reserve personnel and their employers and to keep any employer/employee military related problems as low keyed as possible. I would also like to see more NCANG personnel recognize their employers for the support they do give by visiting the ESGR website (www.esgr.org) and nominating their employers for the **"MY BOSS IS A PATRIOT"** award.

Lastly, I would like for all commanders to know that I am willing to visit your squadron and/or unit to give a short ESGR briefing. I am here to assist you in anyway that I can! **Please leave a message with the Family Readiness Office 1-800-354-6943 Ext. 4949 and I will call you back.** Thanks for your support!

Jim Rorie



New TRICARE Mail Order Pharmacy to Open March 1

American Forces Press Service reports that more than 400,000 military pharmacy mail order customers will be switched March 1 to a new TRICARE mail order pharmacy program, according to Army Col. William D. Davies of the TRICARE Management Activity. Services will continue under the National Mail Order Pharmacy contract until Feb. 28, he said. The next day, March 1, Express Scripts Inc. will provide the services. Davies said beneficiaries who have refills remaining on prescriptions on March 1 will be transferred to Express Scripts so they can continue ordering medications on time, with a few exceptions. TRICARE beneficiaries living and working

overseas can use the mail order pharmacy if they have an APO, FPO or a U.S. embassy address. But the prescription must be written by a provider licensed to practice in the United States. For more information, including a complete section on the co-pay structure, visit the TRICARE Website at <http://www.tricare.osd.mil>. Reservists can check the site for details of their benefits under the program. For general information on TRICARE, see http://www.military.com/Resources/ResourceFileView?file=TRICARE_Overview.htm

Congressional Award for Youth Service.

The Congressional Award is the US Congress Award for young Americans. It is non-partisan, voluntary, and non-competitive. The program is open to all 14 to 23 year olds. Participants earn Bronze, Silver, and Gold Congressional Award Certificates and Bronze, Silver, and Gold Congressional Award Medals. Each level involves setting goals in four program areas: Volunteer Public Service, Personal Development, Physical Fitness and/or Expedition/Exploration. For more information or to register for the award go to: www.congressionalaward.org/congress

The TRICARE Dental Program (TDP)

The TRICARE Dental Program (TDP) offers a wide range of diagnostic, preventive and restorative dental services and is available to members and families of the Selected Reserve (SELRES) and Individual Ready Reserve (IRR). Enrollment in the TDP is voluntary, and reserve component sponsors do not have to be activated to enroll themselves or their families in the TDP. There are, however, important differences in coverage for family members when their reserve component sponsors are activated versus when they are in a reserve status. Reserve component sponsors who are activated are covered by the same dental benefits as active duty service members. Sponsors placed on active duty orders for 31 days or more are ineligible for enrollment in the TDP. If previously enrolled in the TDP, they will be automatically disenrolled and automatically re-enrolled upon deactivation. The sponsor should confirm re-enrollment before seeking dental treatment. For family members, the main difference in TDP is the premium cost. Reserve component family members who enroll in the TDP before their sponsor is called to active duty will enjoy a cost savings when their sponsor is activated. The current premium rate for reserve component family enrollment is \$49.36 per month. When the sponsor is activated, fees decrease to \$19.74 per month. Many families enroll after a

sponsor is ordered to active duty. When these families enroll, they pay the active duty family premium rate of \$19.74 per month. When the sponsor is released from active duty, enrollment fees increase to \$49.36 per month. It is also important to remember that premium rates change in January of each year. The TDP requires a 12-month enrollment commitment; however, this commitment is waived for non-TDP-enrolled families whose sponsor is ordered to active duty in support of certain contingency operations, but only if the family is enrolled in the TDP within the first 30 days of activation. If a family enrolls after the initial 30 days of activation, they will be locked in to the TDP for 12 months. Reserve component family members must decide to enroll in the TDP within the first 30 days of their sponsor's activation to take advantage of waiving the 12-month enrollment commitment. This will provide reserve component families the freedom to choose to remain enrolled in the TDP or disenroll if their sponsor is released from active duty before the completion of the 12-month enrollment period and will be responsible for the full premium upon deactivation (per Col K. Woody, Dir of Medical Programs, OASD/RA). The TDP is administered by United Concordia Companies Inc. (UCCI). For more information about the TDP, beneficiaries may access the benefit handbook online at www.ucci.com <<http://www.ucci.com>> or by calling toll free 1-800-866-8499, 24 hours a day.

NCANG FAMILY READINESS NEWSLETTER
UNITING OUR AIR GUARD ONE FAMILY AT A TIME

Family Readiness
Air Guard Expanded Executive Council

Fisk Outwater—Chairman

Kathleen Flaherty

Terry Henderson

Janice Richardson

Deborah Dunlap

Martha Pasour

Sarah Spivey

Family Readiness office telephone number

- 1-800-354-6943 ext. 4949

Cell Phone: 980-721-4019

- The fastest way to get in touch with FR is now through the cell phone, someone will answer or get back in touch with you as quickly as possible.

Emergency contact calls:

- Pager: 1-800-250-4181

*Uniting Our Air Guard
One Family at a Time*



5225 Morris Field Drive
Charlotte, NC 28208

Phone: 1-800-354-6943 Ext 4949
Cell Phone: 980.721.4019

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WWW.NCCHAR.ANG.AF.MIL



Family Readiness

Charter

Develop a program to provide information, on-going education, and assistance to families, members, and leadership aimed at preparing military members and their families for National Guard Military Life.

Mission

Educate, Support, Assist, Communicate, Collaborate, and Sustain.